

APPROPRIATION:

BI-STATE DEVELOPMENT
AGENCY:

Effective date of appropriation act determined by Section 1.130, RSMo 1949, Senate Bill No. 99, 65th General Assembly may not be amended by an appropriation act.

12-7-51



December 3, 1951

Honorable Bert Cooper, Director
Department of Business and Administration
State Office Building
Jefferson City, Missouri

Dear Mr. Cooper:

The following opinion is rendered in reply to your request of November 26, 1951, reading as follows:

"Due to the present prevailing condition of the work of the General Assembly, indications are that House Bill No. 496, will not be passed before January 1, 1952. For that reason the opinion furnished us on November 23 is not adequate; hence we are obliged to ask for an additional opinion as follows:

"The specific piece of legislation in which we are interested is Section 10.840 of House Bill No. 496 which reads in part, 'there is hereby appropriated * * * the sum of twelve thousand five hundred dollars, \$12,500, to the Bi-State Development Agency * * * for the biennial period beginning July 1, 1951, and ending June 30, 1953. The foregoing amount is in addition to the amount appropriated for the same purpose enacted in Section 4.370 of House Bill No. 5 an act of the 66th General Assembly'. The reasonable assumption is that the bill (or some modification thereof) will not be passed until after December 31, 1951, and what we would like to know is whether

Honorable Bert Cooper

passage of such a bill after December 31, 1951 would be valid in view of the proscriptions contained in Section IV of Senate Bill No. 99 of the 65th General Assembly. In the event that such enactment subsequent to December 31, 1951, is legal, would the funds so appropriated be available to the Agency for the period beginning January 1, 1952?

"The above questions are raised because it is felt that some clarification is needed in the conclusion expressed in the Attorney General's opinion mentioned above. That conclusion states that the '66th General Assembly may make an appropriation by an enactment effective on or before December 31, 1951'. We are uncertain whether this means that the appropriation act must be passed, signed by the Governor, and become effective before December 31, 1951, or whether on the other hand passage subsequent to January 1, 1952 would make the funds available for the period beginning January 1, 1952 in view of the fact that the bill itself states that the appropriation is for the biennial period beginning July 1, 1951.

"In as much as we need the answer requested to use in the Committee hearing before the Senate, we will appreciate an opinion at the earliest date possible."

Relative to the conclusion stated in our opinion of November 20, 1951, we do not feel that such conclusion needs clarification but that it fully and adequately disposes of the inquiry to which it was addressed. In this opinion we direct our rulings to (1) the effective date of an appropriation act and (2) whether an appropriation act to be passed subsequent to December 31, 1951, for the purpose of maintaining the Bi-State Development Agency created by Senate Bill No. 99 of the 65th General Assembly would, without a separate mandatory act directed to Senate Bill No. 99, make funds available to the Bi-State Development Agency subsequent to December 31, 1951.

The effective date of an appropriation law is clearly disclosed in Section 1.130, RSMo 1949, which provides as follows:

Honorable Bert Cooper

"A law passed by the general assembly shall take effect ninety days after the adjournment of the session at which it is enacted; provided, however, if the general assembly recesses for thirty days or more, it may prescribe by joint resolution that laws previously passed and not effective shall take effect ninety days from the beginning of the recess, subject to the following exceptions:

"(1) A law necessary for the immediate preservation of the public peace, health or safety, which emergency must be expressed in the body or preamble of the act and which is declared to be thus necessary by the general assembly, by a vote of two-thirds of its members elected to each house, said vote to be taken by yeas and nays, and entered on the journal, or a law making an appropriation for the current expenses of the state government, for the maintenance of the state institutions or for the support of public schools, shall take effect as of the hour and minute of its approval by the governor; which hour and minute may be endorsed by the governor on the bill at the time of its approval;

"(2) In case the general assembly, as to a law not of the character herein specified, shall provide that such law shall take effect on a date in the future subsequent to the expiration of the period of ninety days herein mentioned, said law shall take effect on the date thus fixed by the general assembly.

"(3) In case the general assembly shall provide that any law shall take effect as provided in subsection (1) of this section, the general assembly may provide in such law that the operative date of the law or parts of the law shall take effect on a date subsequent to the effective date of the law."

Honorable Bert Cooper

Subparagraph (1) of the above quoted statute discloses the effective date of an appropriation act, and subparagraph (3) of such section authorizes the general assembly to postpone the effective date of such a law.

Section 4 of Senate Bill No. 99, passed by the 65th General Assembly contains the following proviso:

"Provided, that no appropriation of moneys from state funds in support of the Bi-State Agency herein created or in support of the project provided for in the compact herein set out shall ever be made by the State of Missouri after December 31, 1951."

Senate Bill No. 99, supra, is a general law and not an appropriation act. It is clearly evident from reading the proviso contained in Section 4 of the act that the legislature did not intend that the State of Missouri should be obliged to make an appropriation out of public funds subsequent to December 31, 1951, for the support of the Bi-State Agency created by such act. This statute cannot be repealed or amended except by subsequent general legislation.

Section 23 of Article III of Missouri's 1945 Constitution provides as follows:

"No bill shall contain more than one subject which shall be clearly expressed in its title, except bills enacted under the third exception in section 37 of this article and general appropriation bills, which may embrace the various subjects and accounts for which moneys are appropriated."

The above quoted constitutional provision represents a change in form but no change in substance of Section 28, Article IV of the Missouri Constitution of 1875, which was under scrutiny by the Supreme Court of Missouri in the case of State of Missouri ex rel. v. Forrest Smith, State Auditor, 75 S.W. (2d) 828, 335 Mo. 1069. In such case the court disclosed why an appropriation act may not amend a general statute. In the opinion we find the following language at 335 Mo. 1069, l.c. 1073:

"* * * Besides, legislation of a general character cannot be included in an appropriation bill. If this appropriation bill had attempted to amend Section 13525

Honorable Bert Cooper

it would have been void in that it would have violated Section 28 of Article IV of the Constitution which provides that no bill shall contain more than one subject which shall be clearly expressed in its title. There is no doubt but what the amendment of a general statute such as Section 13525, and the mere appropriation of money are two entirely different and separate subjects."

CONCLUSION

House Bill No. 496, now pending before the 66th General Assembly will have its effective date determined by Section 1.130, RSMo 1949, and the passage of such appropriation act subsequent to December 31, 1951, will be ineffective to amend Senate Bill No. 99, of the 65th General Assembly.

Respectfully submitted,

JULIAN L. O'MALLEY
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

JLO'M:ba